

MIKE NOVO  
ZONING ADMINISTRATOR

COUNTY OF MONTEREY  
STATE OF CALIFORNIA

RESOLUTION NO. 030385

A. P. # 139-161-038-000

In the matter of the application of  
**Danny & Catherine Lindstrom (PLN030385)**

**FINDINGS & DECISION**

to allow a Combined Development Permit in accordance with Title 21 (Zoning) Chapter 21.76 (Combined Development Permits) of the Monterey County Code, consisting of 1) a Use Permit and slope exception to allow the grading of 4,270 cubic yards of cut and fill for a residence and driveway, the driveway provides primary access for the proposed residence, minor portions of which both the driveway and residence will bridge 30% slopes. 2) Design Approval for the construction of a 3,350 square foot two story single family dwelling with an attached garage, septic system and two 5 foot high by 53 foot long retaining walls, and a 1,098 square foot barn. The project is located at 23370 Berry Drive, Salinas, south east of River Road, Toro area, came on regularly for meeting before the Zoning Administrator on January 8, 2004.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

**1. FINDING: CONSISTENCY & SITE SUITABILITY** – The Lindstrom Use Permit and Design Approval (PLN030385), as described in Condition #1 and as conditioned, is consistent with the plans, policies, requirements, and standards of the Monterey County General Plan, the Toro Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 23370 Berry Drive, Salinas, Toro area. The property is zoned “LDR/2.5-D” or Low Density Residential, within a Design Control District. The site is physically suitable for the use proposed.

**EVIDENCE:** (a) The application and plans submitted for the Use Permit and Design Approval in project file PLN030385 at the Monterey County Planning and Building Inspection Department.

(b) Staff conducted a site visit in August 2003 to verify that the proposed project complies with regulations in Title 21. The proposed driveway would not have a significant adverse impact on the public viewshed.

(c) The Toro Area Land Use Advisory Committee (LUAC) reviewed the project on September 22, 2003, and recommended approval (vote 4 to 0) with one recommendation essentially stating that the project should change the setbacks from 20 feet to 30’ feet. The project has been conditioned to comply with this recommendation by the Salinas Rural Fire Protection District.

(d) The “Geologic and Soil Engineering Report” prepared for this site by Soil Survey, Inc (July 2003) concludes that the site is suitable for the proposed development provided recommendations in the report are incorporated in the project design and are implemented during construction.

(e) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Salinas Rural Fire Protection District, Monterey County Water

Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and the Monterey County Health Department. There has been no indication from these agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed. No development is proposed within the scenic easement.

2. **FINDING: CEQA (Exempt)** - The project is exempt from environmental review.

**EVIDENCE:** (a) CEQA Guidelines Section 15303 (a) and 15061 (b) (3) exempts the construction of one single-family dwelling and projects with the potential for a significant effect on the environment. The development of a 600 square foot section (50 feet long and 12 feet in width) of a proposed driveway on man-made slopes that average 30 to 36 percent and the construction of a 3,350 sq. ft. single family dwelling on portion of slopes 30 percent or greater. This is the primary environmental issue affecting this project and is described in finding no. 3 below. Based on staff's analysis, it was determined that development on the steeper slopes would not have the potential for causing a significant adverse effect on the environment for the following reasons:

1) No adverse environmental effects were identified during staff review of the development application and during the site visit. There are no environmentally sensitive habitats or trees that would be impacted. There are no unusual circumstances related to the project or property. Visual impacts would not be significant.

2) The 30 to 36 percent slopes, which is the primary subject of this permit, occur on natural slopes. Due to existing site constraints, the proposed development will minimize impacts to existing site resources from the proposed development. The applicant is required to comply with Title 16 (Environment) of the Monterey County Code in terms of grading and erosion control requirements. These recommendations are included as permit conditions. See preceding and following findings and supporting evidence.

3. **FINDING: 30 PERCENT SLOPE WAIVER** - There is no feasible alternative that would allow development to occur on slopes less than 30 percent. The proposed development better achieves the goals, policies, and objectives of the Monterey County General Plan and the Toro Area Plan than other development alternatives.

**EVIDENCE:** (a) Driveway. The proposed driveway, which is approximately 480 feet in length, crosses a portion of natural slope averaging approximately 30 to 34 percent. The steep portion of the driveway is approximately 50 feet in length and averages 12 feet in width (600 sq. ft.). That portion of the proposed driveway located on steep slopes covers an area that is less than 0.81 percent of the entire 2.50-acre parcel.

(b) Residence. The proposed residence, which is approximately 120 feet in length, crosses minor portions of natural slope exceeding 30 percent. That portion of the proposed residence located on slopes in excess of 30% covers an area that is less than 0.25 percent of the entire 2.50-acre parcel.

(c) Alternative Locations. The lot itself is 2.5 acres in size however, only 20 feet of the property fronts Berry Road. The entire property frontage has slopes of thirty to thirty six percent and is further constrained by Oak trees and a scenic easement on one side of the proposed driveway, subsequently narrow access and Oak trees on the other side severely limit alternative sites for the driveway. The proposed residence is also constrained by existing stands of Oak trees, scenic easements as well as a thirty-foot setback requirement set by the Salinas Rural Fire District. Therefore, it was determined that there was no more suitable site for the proposed project.

(d) See also findings 1 and 2 above and supporting evidence.

(e) Materials in file and applicant’s letter of justification for a waiver of the policy prohibiting development on slopes exceeding 30 percent.

**4. FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.

**EVIDENCE:** (a) Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

**5. FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.

**EVIDENCE:** (a) Preceding findings and supporting evidence.

**6. FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

**EVIDENCE:** (a) Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21).

**DECISION**

It is the decision of the Zoning Administrator of the County of Monterey that said application for a Combined Development Permit be granted as shown on the attached sketch and subject to the following conditions:

1. The Lindstrom Development Permit consisting of 1) a Use Permit and slope exception to allow the grading of 4,270 cubic yards of cut and fill for a residence and a driveway 480 in length. The driveway provides primary access for the proposed residence, minor portion of which both the driveway and residence will bridge 30% slopes. 2) Design Approval for the construction of a 3,350 square foot two story single family dwelling with an attached garage, septic system and two 5 foot high by 53 foot long retaining walls, and a 1,098 square foot barn. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No

use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

**Prior to Issuance of Building and Grading Permits:**

2. The applicant shall record a notice that states, "A permit (Resolution No. 030385) was approved by the Zoning Administrator for Assessor's Parcel Number 139-161-038-000 on January 8, 2004. The permit was granted subject to 27 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of a grading permit or commencement of the use. **(Planning and Building Inspection)**
3. Prior to issuance of a grading permit an erosion control plan shall be prepared by a qualified professional, subject to the approval of the Director of Planning and Building Inspection. All cut and/or fill slopes exposed during the course of construction for the driveway and residence shall be covered, seeded, or otherwise treated to control erosion. The grading plans shall include an implementation schedule of measures for the prevention and control of erosion and dust during and immediately following construction until erosion control planting is established. **(Planning and Building Inspection)**
4. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan, which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
5. Submit plans for review and approval showing the location and design of the proposed septic system, trenches rather than pits (as recommended by Soils Surveys Inc.), meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB. **(Environmental Health)**
6. The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency and Planning and Building Inspection Department. **(Water Resources Agency & Planning and Building Inspection)**
7. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. **(Salinas Rural Fire Protection District)**

8. The grade for all roads, streets, private lanes, and driveways shall not exceed 15 percent. **(Salinas Rural Fire Protection District)**
  
9. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead/T is used, the top of the "T" shall be minimum of 60 feet in length. **(Salinas Rural Fire Protection District)**
  
10. Roadway turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25-foot taper on each end. **(Salinas Rural Fire Protection District)**
  
11. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. **(Salinas Rural Fire Protection District)**
  
12. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Salinas Rural Fire Protection District)**
  
13. Where road grades exceed 8 percent, a minimum structural roadway surface thickness of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. **(Salinas Rural Fire Protection District)**
  
14. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Salinas Rural Fire Protection District)**
  
15. All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road. **(Salinas Rural Fire Protection District)**
  
16. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Salinas Rural Fire Protection District)**
  
17. All parcels 1 acre and larger shall provide a minimum 30-foot setback for buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, or when a 30-foot minimum setback cannot be reached, alternate fuel modification standards may be imposed by the local fire jurisdiction to provide the same practical effect. **(Salinas Rural Fire Protection District)**

18. Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of the building permit. **(Salinas Rural Fire Protection District)**
19. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. **(Salinas Rural Fire Protection District)**
20. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:  
  
*"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval, and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection."* **(Salinas Rural Fire Protection District)**
21. Fire sprinklers shall be installed in attached garages. **(Salinas Rural Fire Protection District)**
22. In very high hazard areas, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be class A, with fire resistive materials, or as approved by the reviewing authority. This requirement shall apply to all new construction and existing roofs that are repaired so as to affect 50 percent or more of the roof. Vegetation will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel **(Salinas Rural Fire Protection District)**
23. When construction begins, temporary address numbers shall be posted. Permanent address numbers shall be posted prior to requesting final clearance. All address numbers (permanent and temporary shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 3 inches with a 3/8 inch stroke, and contrasting with the background colors of the sign. **(Salinas Rural Fire Protection District)**
24. Trees that are located close to the construction site shall be protected from inadvertent damage from construction grading by avoiding fill or cut of any type against the base of the trunks and avoiding an increase or decrease in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of grading permits and subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

**Prior to Final Inspection:**

25. Those areas disturbed by construction activity shall be landscaped. At least 60 days prior to occupancy, three copies of a landscaping plan shall be required with review fees. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before final grading inspection, either the landscaping shall be installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**
26. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
  - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices. **(Water Resources Agency)**

**Continuous Permit Conditions:**

27. If cultural, archaeological, historical, or paleontological resources are uncovered at the site (surface or subsurface resources) at any time work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 8th day of January 2004.

Original Signed By:

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MIKE NOVO  
ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Marina.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.